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Security Council

Sixty-second year

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Monday, 10 December 2007, 10.20 a.m.

New York

President:	Mr. Spatafora/Mr. Mantovani	(Italy)
Members:	Belgium	Mr. Verbeke
	China	Ms. Chen Peijie
	Congo	Mr. Okio
	France	Mr. Renié
	Ghana	Mr. Tachie-Menson
	Indonesia	Mr. Kleib
	Panama	Mr. Suescum
	Peru	Mr. Chávez
	Qatar	Mr. Al-Nasser
	Russian Federation	Mr. Rogachev
	Slovakia	Mr. Burian
	South Africa	Mr. Maqungo
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	United States of America	Ms. Willson

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 12 November 2007 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2007/663)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

07-63372 (E)

Letter dated 16 November 2007 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2007/676)

The meeting was called to order at 10.25 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994

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The President: I should like to inform the Council that I have received letters from the representatives of Croatia, Rwanda and Serbia in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned States took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of the provisional rules of procedure to Judge Fausto Pocar, President of the International Tribunal for the Prosecution of Persons Responsible got Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991; Judge Dennis Byron, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994; Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them documents S/2007/469, containing a note by the Secretary-General dated 1 August 2007 transmitting the fourteenth annual report of the International Tribunal for the Former Yugoslavia and S/2007/502, containing a note by the Secretary-General dated 21 August 2007 transmitting the twelfth annual report of the International Criminal Tribunal for Rwanda.

I wish to draw the attention of the members to document S/2007/663, containing the text of a letter dated 12 November 2007 from the President of the International Tribunal for the Former Yugoslavia and document S/2007/676, containing the text of a letter dated 16 November 2007 from the President of the International Criminal Tribunal for Rwanda.

At this meeting, the Security Council will hear briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the

International Criminal Tribunal for Rwanda and the Prosecutors of the International Tribunals for the Former Yugoslavia and Rwanda.

I now give the floor to Judge Fausto Pocar, President of the International Tribunal for Former Yugoslavia.

Judge Pocar: I am honoured to present to the Security Council the eighth report of the President of the International Tribunal for the Former Yugoslavia, in accordance with Security Council resolution 1534 (2004). In my address to you today, I will also offer an assessment of the work that remains to be completed in light of ongoing challenges to the finalization of the Tribunal's historic mandate and of developments since the submission of the report.

Before reviewing the Tribunal's activities during the past six months, allow me to personally thank you, Mr. President, for the unwavering support shown by your country and mine, Italy, to the important work of the International Tribunal. Italy's support, as well as that of the other members of the Security Council, is critical to ensuring the lasting legacy of the Tribunal's unique achievements.

The Tribunal will leave an incredibly rich and important legacy to current and future international criminal jurisdictions in substantive, procedural and institutional terms. Many parts of the report offer perfect examples of those realizations.

The first accomplishment I wish to highlight is the Tribunal's unparalleled efficiency in the conduct of international criminal proceedings. Out of the 161 accused indicted by the Tribunal, trial and appeal proceedings against 111 accused have been completed. Of the 50 accused whose cases remain to be completed, four remain at large, eight accused have pending appeals, 27 have commenced trial and 11 are currently in the pre-trial stage. The dramatic increase shown in those figures, particularly in recent years, clearly surpasses any reasonable expectation.

During the reporting period, the three Trial Chambers continued to operate at record capacity, conducting additional hearings during the three-week summer recess. Taking advantage of the fact that one of those trials has entered into the phase of judgment drafting and does not therefore necessitate a courtroom, the International Tribunal was able to start the trial of Vojislav Seselj on 7 November 2007, bringing to eight the number of cases simultaneously handled in trial phase. That was made possible because all the members of the trial bench in that case are currently sitting in two trials.

The Appeals Chamber has also increased its productivity in relation to both the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR). For 2007, it has so far rendered 235 written decisions and 15 judgments, including four review or referral appeals and, since the submission of my written report, two additional ICTR judgments on the merits. That achievement is attributable to the implementation of the various measures adopted to speed up trial and appellate proceedings.

In addition to those measures, which are detailed in the report, we have continued to explore new ways to further streamline trial and appeals procedures. At the most recent ordinary plenary session of 12 July 2007, two other rule amendments were adopted, providing for greater use of testimony by video link and specifying timelines for the filing of pre-trial motions for unrepresented accused.

To summarize, at this time, there remain only 11 accused in seven cases awaiting trial before the Tribunal. That increase of two accused awaiting trial since the last report is attributable to the arrest of two fugitives, Tolimir and Djordjevic. That increase has required the Tribunal to adjust its forecast. It is expected that, with the exception of the two recent arrivals, the Tribunal will be able to complete all of its trials, including the *Lukic & Lukic* case, which was not referred to Bosnia, by the end of 2009. The trials of the two recent arrivals are estimated to finish in early 2010, but I wish to stress that all appeals can still be concluded within 2011. I must stress that such minor adjustments are attributable to the new late arrivals and that, as I indicated, the efficiency of the Tribunal has in fact increased.

Let me emphasize that none of the achievements that I have just mentioned could have been accomplished without the full dedication of all of our judges and staff. Their longstanding experience and exceptional qualifications are yet another contribution the International Tribunal will continue to make in the field of international criminal justice long after we close our doors. The Tribunal has in fact set the example for other international criminal jurisdictions,

elaborating and developing, for instance, rules that ensure the fair and expeditious conduct of international criminal proceedings. The Tribunal has also lent concrete support to other international criminal jurisdictions through loans and transfers of staff and through the conduct of training workshops.

In that regard, I cannot sufficiently underscore the importance of retaining our experienced judges in order to meet completion strategy goals. Many of the International Tribunal's judges are currently serving their second term, while a few are in their third term. It is crucial that the conditions of service of judges be correctly implemented as far as pensions are concerned. In that regard, I must convey the judges' disappointment with the delays suffered in the commissioning of the study on options for designing pension schemes for judges of the Tribunal. The longer it takes for that question to be favourably resolved by Member States, the greater the risk of losing some of the most experienced judges, who will feel compelled to leave the Tribunal to secure pension entitlements in their national jurisdictions. Needless to say, such departures would seriously affect the timely and efficient completion of the Tribunal's work.

I must also caution that, during the reporting period, the number of staff leaving the Tribunal for more secure employment with other institutions has increased. While the Tribunal has managed to minimize delays in recruitment by using the roster system, some delays are inevitable and will probably increase. That will undoubtedly have a detrimental impact on the expeditious completion of the Tribunal's mandate. I would therefore urge the Security Council and Member States to support the Tribunal in its efforts to offer sufficient incentives to guarantee, as much as possible, that its best staff will remain until the work of the Tribunal is completed.

Finally, I want to stress the importance of the work done by our ad litem judges. Of our 12 ad litem Judges, two are serving both as ad litem judge on one trial and reserve on an additional trial, while two ad litem judges are serving on two trials. Three ad litem judges have begun hearing an additional trial while drafting the judgment in another case, thus serving on two and, in one instance, even three cases simultaneously and full time. In other words, all 12 ad litem judges have been willing to take on an onerous workload to ensure the expeditious completion of the Tribunal's mandate.

Let me turn now to our partnership with domestic courts. As members of the Council well know, the referral of intermediate and lower-ranking accused to competent national jurisdictions, which is provided for under rule 11 bis, was developed in the context of the completion strategy. However, the success of the referral procedure also stands to be a key indicator of our commitment to sharing know-how with domestic courts, in particular in the former Yugoslavia, along with our involvement in capacity-building and outreach activities in the region.

Of the cases referred by the International Tribunal, the Special War Crimes Chamber of Bosnia and Herzegovina has completed two trials in the *Stankovic* and *Jankovic* cases, three trials are ongoing and one case is at the pre-trial stage. The Tribunal is satisfied that the two completed trials respected international norms of due process, as recognized by reports prepared by the Organization for Security and Cooperation in Europe and by human rights organizations. I must, however, emphasize that, in order for our completion strategy to succeed and for local judiciaries to carry on the legacy of the International Tribunal, it is vital that the international community maintain its support for capacity-building of judicial institutions in the region. A lot of work remains to be done if those courts are to successfully continue the mission of the Tribunal in the future. By way of illustration, there is a desperate need to ensure adequate detention facilities for remand and convicted accused. Much also remains to be done in the training of police and prison officers on due process and human rights standards. Improvements in the quality of cooperation between States of the region in the investigation and prosecution of alleged war criminals are also needed.

The Tribunal recently took the initiative to strengthen cooperation and facilitate the work of our domestic counterparts, especially in the former Yugoslavia, through the adoption of an amendment to rule 75 of the Rules of Procedure and Evidence that allows judicial authorities in other jurisdictions or parties duly authorized by an appropriate judicial authority to petition the Tribunal directly for access to confidential material. The timeliness of that amendment was evidenced by the fact that, shortly after its adoption, judicial authorities in Bosnia quickly petitioned the International Tribunal for such access, thereby further reinforcing our existing partnership.

Turning to the question of State cooperation, I must report that there has been some progress in that area. It is undeniable that the fact that two fugitives, Tolimir and Đorđević, were recently arrested and transferred to the International Tribunal for trial is a very encouraging development. However, I must still regretfully note the failure to secure the arrest and transfer of the four remaining high-level fugitives, namely, Karadžić, Mladić, Župljanin, and Hadžić. At this point the necessity of full cooperation by States has reached a critical stage. I must therefore restate that the Tribunal should not close its doors before those fugitives are arrested and tried. I also reiterate my call to all States to do all within their power to ensure the arrest of those fugitives immediately.

With respect to the question of the International Tribunal's residual mechanisms that will have to remain in place after all trials and appeals on the International Tribunal's docket are completed, let me give the Council the following update.

Two joint reports were submitted by the Tribunal and the ICTR, in December 2006 and April 2007, respectively. After receiving comments from Member States, we submitted a final report to the Office of Legal Affairs in September 2007, and are pursuing our work with the Security Council Working Group on the International Tribunals on that matter.

Finally, I wish to underscore that the International Tribunal's commitment to meeting completion strategy deadlines has remained steadfast. In presenting the report to the Council today, I have noted some of the results achieved in terms of efficiency, which has not come at the expense of upholding fundamental due process standards. The slippage in previously projected completion dates has occurred for reasons out of our control, that is, the late arrest of the two fugitives recently transferred to the Tribunal at a time when their case could no longer be joined with other pending proceedings. One year ago, I urged the Security Council to take action to arrest immediately the remaining fugitives and warned that any delays in that regard would seriously undermine the Tribunal's ability to meet projected completion strategy dates. The failure to arrest the remaining four fugitives will inevitably lead to further delays. If those fugitives are arrested now, some, but not all of them, may be eligible for joinder with pending proceedings. However, any delays in their arrest will necessarily result in separate trials, which will cause additional adjustments to the currently projected completion strategy deadlines.

I should add that we have already considered the conditions that would allow us to limit, to the greatest extent possible, the impact of late arrests on projected deadlines and to maintain the same level of productivity during most of 2008 and 2009. One such condition has actually already been met. One of the ongoing trials will enter the judgement-drafting phase by the end of January 2008, earlier than expected, thereby creating courtroom availability. Two more cases currently at trial will successively move to the drafting phase, enabling us to start an additional trial in February or March 2008. We currently have the necessary staffing resources to support such a level of trial activity, including the additional trial. But, as far as judges are concerned, one permanent judge, who expects to deliver a judgement in December of this year, would be available to start a new case and could finalize the pre-trial phase of that case by early 2008. At that point two solutions could be envisaged with respect to ad litem judges, both of which would require the Council's intervention.

On one hand, the statutory three-year term of current ad litem judges who would accept to sit in a new trial could be extended for the time required to complete it. Another option would be to appoint additional ad litem judges, thereby temporarily increasing the number of ad litem judges above 12. The number of ad litem judges would return to 12, as provided under the Statute, as soon as the first multi-accused trial is completed, which is foreseen for September 2008. Should the Security Council decide to consider either of those two options, I would be able to provide a chart reflecting their impact on the schedule of trials.

In conclusion, I must emphasize that the success of the Tribunal's legacy cannot be measured only by the judgements it has issued or by the number of trials and appeals completed. Obviously, the real measure of its success lies in the invaluable precedent it has set for the enforcement of international humanitarian law and the contribution it has made to the restoration of peace and stability in the former Yugoslavia. Indeed, after having developed and expanded international humanitarian law, it was essential for the international community to see those norms enforced and to affirm that those responsible for serious violations of

international humanitarian law would not enjoy impunity.

The Tribunal has clearly demonstrated that international justice can be efficient without sacrificing due process standards. In the last two years, we have constantly developed creative approaches that have proved particularly effective in meeting those goals, as well as completion strategy objectives. It is now for the Council to renew its support for the Tribunal's mission and to the successful completion of its work.

I thank the Council for the attention and the time that it has given to me today.

The President: I thank Judge Pocar for his very comprehensive and detailed briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I am greatly honoured to address the members of the Security Council and to present the second annual assessment of the International Criminal Tribunal for Rwanda's completion strategy, for the period June 2007 up to the present time.

In August, one new indictment was issued, namely, to prosecute a witness for giving false testimony. It was the first such case in the history of both International Tribunals and an important mechanism for protecting the integrity of the judicial process. Final trial chamber judgements were delivered and sentences were imposed against three persons, including in the case of false testimony. Cases of two accused were referred to France.

The evidence phase in the trials against five persons was completed, bringing the total in the judgement-writing phase to cases against nine persons. Trials are in progress against 18 persons in the four multi-accused cases and in one single-accused case that was commenced during the reporting period. There are three detainees awaiting transfer to the Tribunal. The case of Bagaragaza, which had been transferred to the Netherlands, met technical difficulties there and has been referred back to the Tribunal for disposition. Two of the fugitives arrested during this reporting period await the completion of the judicial process for their transfer to the Tribunal, one in Germany and one in France. At the Tribunal, there are two detainees whose trials are due to commence in early 2008 and four detainees whose cases for referral to a national jurisdiction are pending. There are 14 fugitives still at large.

I should recall that in previous reporting periods, one accused died before trial and two indictments were withdrawn. One of those, the case against Bernard Ntuyahaga, was tried in Belgium earlier this year. In summary therefore, of the 91 indictments issued, 41 have been disposed of, 36 are under active judicial management and there are 14 fugitives at large.

This reporting period has seen substantial achievements, despite unexpected problems. The Tribunal was saddened by the sudden passing of Mr. Gaudreau, a Canadian citizen, who was Lead Counsel for Jérôme Bicamumpaka in the *Bizimungu* trial, which necessarily caused a hiatus until his replacement.

The judicial calendar for 2008 projects the delivery of final judgements in all previously mentioned cases that are in the judgement-writing phase. The evidence phase in the cases of the accused whose trials are in progress will be completed, except for the multi-accused case of *Karemera*, about which there have been previous reports, and the case of Augustin Ngirabatware, who is yet to be transferred to the Tribunal following his recent arrest in Germany. The cases of the accused in detention awaiting trial should be completed, with the four courtrooms running at maximum utilization during the entire year. That, of course, cautions that, if there are new cases for trial resulting from the arrest of the 14 fugitives still at large, difficulties with the referral of cases to national jurisdictions for trial, any new indictments, or unexpected developments in the cases already planned for trial, special arrangements will have to be made.

At the appeals level, two final judgements concerning four accused were delivered during the reporting period, bringing to 24 the total number of persons whose judgements have been completed at the appellate level. There are currently two accused persons with pending appeals.

I should highlight that the Appeals Chamber delivered its decision in the *Media* case of the Trial Chamber presided by Judge Pillay of South Africa, which set for the first time in international criminal law standards applicable to the responsibility of journalists for serious crimes against humanitarian law. However, the complexity of the appellate progress was evidenced

by the fact that the Trial Chamber decision had been delivered during the year 2003.

It is, indeed, not too early to make plans for the completion of the Tribunal's appellate functions. As we consider the number of cases and referral proceedings in progress, it is expected that, during 2008, the appeal workload will substantially increase, and the same is true for the International Criminal Tribunal for the former Yugoslavia (ICTY). I would venture to suggest that, unless it is supplemented, the Appeals Chamber will not have sufficient capacity to complete its anticipated workload by December 2010. That is a situation that needs to be urgently addressed, perhaps as soon as June 2008.

The significant results achieved by the Tribunal over the past six months are indisputably due to the coordinated efforts of all sections within the Tribunal. The Tribunal's ability to maintain and improve upon its current level of efficiency remains, however, largely dependant on the retention of its highly experienced and qualified judges and staff.

The Tribunal has been deploying its best efforts to persuade the Security Council and General Assembly to make special provisions to assist in retaining its staff. The crisis will undoubtedly escalate as we get closer to December 2008. I am aware that the issue is being actively considered by the relevant committees and officials. At this juncture however, I would like to invite the Council to authorize the Secretary-General to take all reasonable measures to ensure that the Tribunal is able to retain its staff in order to achieve its mandate strategy.

In relation to the permanent judges, I would simply like to express my solidarity with my colleague, President Pocar, on the issue of pensions.

At the International Criminal Tribunal for Rwanda (ICTR), however, there is the special case of the ad litem judges, who have contributed equally with the permanent judges to the achievements and efficiencies that the Tribunal has exhibited. The Council's decision to extend the mandate of permanent and ad litem judges provided the Tribunal with the continuity, stability and experienced judges necessary for an expeditious completion of our mandate. It is our submission that a necessary sequel to that decision is to make further adjustments to the mandate of the ad litem judges, in order to consolidate achievements and to further efforts to achieve the completion strategy. The Tribunal has benefited from the cooperation and assistance of States, which is paramount for the successful accomplishment of its mission.

In that regard, I must record with approbation that during the reporting period France has received two referral cases and that there were arrests of four fugitives, three in France and one in Germany. Yet, there are still the 14 fugitives who remain at large. Failure to arrest them and bring them to justice will seriously undermine the purpose for which the Tribunal was established. On behalf of the Tribunal, I once again call upon Member States to guarantee the arrest and transfer of these fugitives without delay.

The relocation of acquitted persons has also become a matter for the Council's attention. Two acquitted persons remain under the protection of the Tribunal in Arusha. The Registrar continues to make strenuous attempts to find a country of residence for them, but without positive results to date. I kindly request the support and assistance of Council members in finding and imposing a sustainable solution.

In compliance with Security Council resolution 1503 (2003), the Tribunal and various stakeholders of the justice sector in Rwanda have continued to work to strengthen the capacity of the judicial system of Rwanda. Through its Outreach Programme, the Tribunal continues to raise awareness of its activities through multifaceted activities in partnership with academic institutions, the media and organizations of civil society. In November, the Tribunal co-organized a three-day symposium in Arusha, focusing on the legacy of the Tribunal. Delegates from the African legal community contributed to valuable discussions on the work of the Tribunal and on mechanisms for disseminating the lessons learned to inform international law and to assist in the development of legal systems in the Great Lakes region.

During the reporting period, significant progress has also been made in addressing one of the important residual and legacy issues: the Tribunals' archives. The Advisory Committee on Archives has engaged in informal consultations with Governments, civil society, non-governmental organizations, victims groups and international organizations, in Rwanda and elsewhere. Its report, which is expected to be presented before the next reporting period comes to an end, will assist the Tribunals to provide informed recommendations to the

Security Council for its consideration and ultimate decision-making.

The impact of the Tribunal's work has already extended beyond the number of persons prosecuted and judgements rendered. One of the fundamental and lasting contributions of the Tribunal is bringing justice to the peoples of Rwanda and the Great Lakes region. Justice is an essential element of peace and reconciliation. There will be no lasting peace if there is no credible international justice perspective that unites on a higher level the peoples of Rwanda and the Great Lakes region, who have suffered from the heinous crimes committed in 1994.

On behalf of the Tribunal, I want to take this opportunity to thank the Security Council, the Secretariat and Member States for their steadfast support to the Tribunal which is crucial to the accomplishment of its work. I respectfully request the continued assistance of all Member States as we pursue our commitment to complete the ongoing trials in light of the Completion Strategy and to guarantee the triumph of international justice and the fight against impunity.

The President: I thank Judge Byron for his comprehensive briefing. I want to assure him that the Council takes due note of his requests, his appeals and his remarks, as we have done with those of Judge Pocar.

I now give the floor to Ms. Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.

Ms. Del Ponte: I, too, am honoured to be given the opportunity one last time in my capacity as Prosecutor of the International Tribunal for the Former Yugoslavia to address the Council and to thank members for the support they have given me over the past eight years. I wish the new Prosecutor, Mr. Serge Brammertz, success and trust that the Council will give him the support he will need to accomplish his mandate.

Members of the Council will have received my written assessment on the completion strategy of 12 November 2007 (S/2007/663, annex II). Since the situation remains unchanged in most areas covered in the report, I will just focus on the most important topic: cooperation provided by Serbia as it relates to the search for remaining fugitives. Serbia's cooperation is an issue that remains essential to the work of the Office of the Prosecutor and its ability to fulfil its mandate in accordance with Security Council resolutions and the completion strategy that was endorsed by this Council.

What I am about to say may sound very familiar. Two years ago (S/PV.5328), I told the Council that the Serbian Government had raised expectations that Ratko Mladic would be arrested soon. However, despite its declared commitments, I reported that Serbia failed to take action to arrest and transfer the fugitives and described the shortcomings in the plans to search for fugitives. Today, the situation remains exactly the same.

Six months ago, I was here before the Council (see S/PV.5697), cautiously optimistic that, after 12 years, we might finally see Ratko Mladic and Radovan Karadzic in our custody. Unfortunately, Mladic, Karadzic and two other accused are still at large, and, following my last visit to Belgrade, I have to say my optimism has waned considerably. It is true that we have resolved some of the remaining issues in relation to access to documents and archives, and I sincerely hope that problems of that nature are now behind us. In contrast, there has been too little progress and commitment on the issue of fugitives, and too few concrete steps have been taken to arrest them.

My Office has invested great efforts to secure the transfer of persons indicted by the International Tribunal. We have come a long way. Ninety-one individuals were brought into our custody during my mandate. Of the 161 persons initially indicted, only four remain at large. However, as I must always repeat, it is a stain on the International Tribunal's work that two individuals indicted for genocide and responsible for the worst crimes committed in Europe since the Second World War are still fugitives. The fact that Ratko Mladic and Radovan Karadzic are still at large undermines the very idea of international justice.

Earlier this year I had high hopes that there had been a breakthrough in Serbia and that we would soon, finally, see the arrest of the remaining four fugitives. The newly established Government took a more positive stance towards cooperation with the Office of the Prosecutor. Shortly after being appointed, it stated that cooperation with the Tribunal was one of its top priorities and took a number of important steps towards achieving that goal. The Government established the National Security Council which now oversees

cooperation with the International Tribunal and the search for remaining fugitives.

Serbia played a significant role in the arrest of Zdravko Tolimir and Vlastimir Djordjevic, who were transferred shortly before my address to the Security Council. In particular, Zdravko Tolimir has even repeatedly said in court that it was in fact Serbia and not the entity of Republika Srpska that arrested him. I assessed these as positive steps and said that these arrests demonstrated Serbia's ability to cooperate with the Tribunal. This is why I thought that Serbia might actually achieve full cooperation by arresting and transferring Ratko Mladic, even if the authorities were unwilling to publicly acknowledge such an arrest.

July and August passed without any visible results and I became concerned. In September, I returned to Belgrade and, in order to assist the efforts of the authorities in Serbia, I agreed to commit Tribunal resources to assist in the search for fugitives. Since then, a senior representative of my Office travels to Belgrade every week, attends high-level inter-agency meetings and closely observes the efforts in the search for fugitives. We have also continued to encourage and intensify cooperation between all those services engaged in the search for the fugitives in the region.

To demonstrate my own commitment to that cooperation, since my appointment as Prosecutor, I have been to Belgrade 20 times. Four visits have taken place in the past six months. My team and I have done everything in our power to assist Serbia in fulfilling its international obligations. Serbia still has not done its part.

Since June, while communications have improved, leadership and coordination between the two principal security services in charge of the search for fugitives remain problematic. There are serious deficiencies in the leadership that is supervising the security services. Decisions taken at the higher level are not always followed up by these services. Specific information transmitted from my Office is not always acted upon, properly checked or expeditiously processed. Important operational decisions are not implemented or are implemented too slowly or postponed indefinitely, for reasons which are not always clear.

Let me give the Council a very specific example. The Serbian authorities have refused to conduct even the most basic investigative procedures, such as conducting a search of the residence of a relative of a fugitive, out of concern for political repercussions. The civilian intelligence service is unwilling to cooperate more closely with its military intelligence counterpart and continues to refuse to provide full and comprehensive reports. There is no strategy or proper analysis, which is why actions taken are unsystematic, not well prepared and uncoordinated.

Despite the Serbian authorities' declared commitment to fully cooperate with my Office and to improve procedures, there is no clear road map, no clear plan in the search for fugitives, no serious leads and no sign that serious efforts have been taken to arrest the fugitives. There are, of course, individuals who work hard on these issues. However, this is not a job for any one individual. This is a job that requires the full commitment of the State and of all of its relevant institutions. Unfortunately, we have seen that level of commitment only in words, not in deeds. I cannot deny that steps have been taken, but they have been slow and inefficient. They definitely do not match the urgency of the moment. In short, there is no full cooperation with my Office.

For several years immediately after the war, the responsibility for arresting the Tribunal's indictees was with the international forces in Bosnia and Herzegovina who, in the purported interest of a fragile peace, failed to arrest them. It is no secret that both Ratko Mladic and Radovan Karadzic have been repeatedly sighted in recent years in Serbia, but the authorities failed to take action. I have reliable information that Radovan Karadzic spent time in Belgrade, using his own name, as late as 2004. I have already spoken about negotiations with Ratko Mladic last year and I have reported extensively that another fugitive, Goran Hadzic, was assisted in his escape in 2004.

Although Serbia has the capacity and the know-how, it has repeatedly failed to act. I believe that serious structural deficiencies in the Serbian approach, as well as wilful obstruction of cooperation with the International Tribunal, lie behind this failure to arrest those most responsible for the most heinous of crimes. I urge the authorities in Serbia to take action because it is now high time to take the necessary steps that would lead to the arrest of the fugitives.

Certainly, Serbia's representatives will argue the contrary. They will say that Serbia has done a great deal and should therefore be given unconditional support immediately. They will say that Serbia has transferred many indictees to the International Tribunal. What they fail to say is that most of them have agreed to voluntarily surrender to the International Tribunal. The Serbian authorities thought they could persuade Ratko Mladic to do the same. They were negotiating with him in the spring of 2006, and they knew his exact whereabouts. And yet, they chose not to arrest him.

I urge the international community to seriously address this issue. I ask in particular the European Union member States and the European Union's Commission to maintain their principled position by insisting on Serbia's full cooperation with the International Tribunal as a condition in the European Union pre-accession and accession process. Let me be clear: full cooperation with the International Tribunal signifies the arrest and transfer of Ratko Mladic. European Union conditionality has in recent years been the most effective tool to obtain the transfer of ICTY fugitives. I am convinced that the arrest of the remaining four fugitives will be achieved only if this policy is upheld.

The International Criminal Tribunal for the former Yugoslavia has achieved a great deal. It has accomplished most of its goals and has paved a wide and solid road for international justice. For this, we have to thank the highly dedicated and committed staff of the Office of the Prosecutor and the International Tribunal as a whole. And yet, I will leave this institution with a feeling of disappointment. I am disappointed because of commitments that were not honoured and the legacy that may be left behind for the many victims who will not see justice. It is for them that the International Tribunal was established by the Security Council to try those who are still at large.

Let us not, by our failure to act, give them reason to feel that any stone was left unturned in the pursuit of justice for those most responsible for the terrible crimes committed in the former Yugoslavia. I therefore hope that the Council and the international community will continue to provide the critical support that the International Tribunal will need during the crucial coming years, and that international justice will prevail.

I agreed to an extension of my mandate in order to complete some unfinished business: arresting Ratko Mladic and Radovan Karadzic. I now leave that unfinished business to my successor. I hope that he will not come before the Council again and again, repeating the same words on the same topic: Serbia's cooperation and the arrest of fugitives.

The President: I thank Prosecutor Del Ponte for her comprehensive and passionate briefing.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: The revised completion strategy document submitted by President Byron on 16 November 2007 (S/2007/676), following consultations with the Prosecutor and the Registrar, sets out in great detail the progress made so far at the International Criminal Tribunal for Rwanda (ICTR) in the implementation of its completion strategy. It was supplemented this morning by President Byron's presentation, so I shall not be going into great detail about the matters already covered. Suffice it to say that recent judgements have now brought to 35 the number of accused persons whose cases have been completed by the ICTR. Taking into account the four applications for the transfer of detainees, there are now six accused persons in the United Nations Detention Facility at Arusha awaiting trial.

Altogether, 23 accused — including some cases for which judgement is pending — are now standing trial. We expect the cases of three other accused persons, two of whom were recently arrested in Europe, to be transferred to the ICTR shortly. As President Byron indicated, the third person is Michel Bagaragaza, who will have to return to Arusha following the revocation of the transfer of his case to Holland. It had been determined in Holland, following the referral of his case by the ICTR, that the Dutch courts could not exercise jurisdiction over his case. His trial will therefore proceed in Arusha.

During the reporting period, with the intensification of tracking activities and the cooperation of some Member States, the number of fugitives dropped from 18 to 14, following arrests in France and in the Federal Republic of Germany. I would like to express our appreciation for the cooperation of both France and Germany in that respect. Of those 14 fugitives still at large, including

Felicien Kabuga, four are considered to be of a sufficiently high level to be earmarked for trial in Arusha itself.

The implementation of the strategy for the referral of cases to national jurisdictions was effectively begun with the Trial Chamber's decision in November 2007 to transfer to France, under rule 11 bis, the cases of two indictees currently living in that country. Their trials will now proceed there. Again, I would like to thank the Government of France for agreeing to share the workload of the ICTR by prosecuting those persons in its own courts.

There are now pending before the Trial Chamber five requests by the Prosecution for the transfer of cases to Rwanda. Four of these relate to detainees in Arusha, and the fifth relates to a fugitive. Shortly, I intend to file additional requests for referral, under rule 11 bis, of the cases of additional indictees to Rwanda, given that the latter is currently the only jurisdiction willing to take any additional cases from the ICTR.

Of course, the year ahead is of critical importance to the Tribunal's completion strategy. The Security Council will recall that it had requested the ICTR — and indeed the ICTY as well — to conclude all trial activities at first instance by 31 December 2008 and, in that regard, to concentrate on the prosecution of the most senior leaders and to transfer the rest to competent national jurisdictions for trial.

As this year ends and we prepare for 2008, the crucial question is whether the ICTR will be able to complete all its trial activities by the end of 2008, as envisaged by the completion strategy. Our commitment and optimism with regard to reaching that target remain as strong as before. As the report indicates, we expect to complete by the end of 2008 our current workload related to the detainees now on trial or awaiting trial, with the sole exception of the Karemera case, which, as the President indicated, will probably run into 2009. While the trial proceedings related to the other cases are expected to end in 2008, a number of cases will also be in the judgement writing phase in 2009. The Office of the Prosecutor has already prepared the cases of the six remaining detainees and is ready to proceed to trial in the event of any non-referral of their cases. We thus remain optimistic with regard to completion.

However, members will recall that, in my briefings to the Council on 15 December 2006 (see S/PV.5594) and on 18 June 2007 (see S/PV.5697), I alerted the Council to the fact that if, for any reason, referrals of cases to Rwanda were to prove impossible, that would result in a substantial increase in the ICTR's workload. While we are still in a position to conclude the trials of detainees whose referral is not possible, managing the cases of fugitives that are not transferred poses a more difficult challenge. A final judicial determination of the pending requests for referral to Rwanda would facilitate the search for solutions to that issue. Similarly, if new arrests are made in 2008, as we anticipate, that will also add to our workload, and the Council will have to decide whether to enable the Tribunal to continue with the trials of such cases or to explore other alternatives.

At this stage, I am merely alerting the Security Council to a possible increase in the Tribunal's workload in 2008, which may have an impact on the timeline for the completion of trials. If, for any reason, the workload increases, we shall be returning here to submit specific recommendations to the Council for its consideration.

The efforts of our tracking team have been intensified, with good results, as demonstrated by the four arrests made since our most recent briefing to the Security Council. Happily, INTERPOL has also shown strong interest in assisting with the arrests of the fugitives and recently agreed with the ICTR on some measures aimed at cooperation in that respect. Consultations are ongoing with various parties, including the United Nations Secretariat, the United Nations Organization Mission in the Democratic Republic of the Congo, the Government of the Democratic Republic of the Congo and other Member States regarding those fugitives who are suspected to be in the Democratic Republic of the Congo. As I said earlier, it is probable that further arrests can be carried out during 2008 with the cooperation of Member States.

Of course, Felicien Kabuga remains one of our top fugitives who continue to evade justice. The Joint Task Force established a year ago between the ICTR and the Kenyan Government submitted its report to both the Government and the ICTR in August 2007, with a number of recommendations on the way forward. In my consultations with the Government last month, the Government reaffirmed its commitment to cooperate fully with the Tribunal with a view to, inter alia, tracking down Kabuga for trial. The Kenyan

Government and the ICTR have agreed on a number measures, which will now be implemented by the Task Force and the Kenyan Government within a specific time frame that has been agreed upon with the Government. In the light of recent assurances from Kenya, we hope that it will indeed fulfil its obligations and commitments within that time frame. I would like to express our thanks to the ambassadors of the Group of Friends in Nairobi, whose intervention actually made possible this recent advance in our discussions with Kenya. I implore them to continue to maintain their interest in this particular matter.

Rwanda continues to cooperate with the Tribunal. The capacity-building programme for Rwanda continues to be implemented; the Office of the Prosecutor has, with the help of funding from the European Union, already delivered a number of training programmes for various categories of officials within the Office of the Prosecutor-General in Rwanda. Areas covered included investigations and prosecutions, the use of information technology to provide trial support and the management of trial records. The overall objective of this intervention is to contribute to efforts to improve the legal system in Rwanda.

Since my last report to the Security Council, my office has also made progress in the investigation of the allegations against members of the Rwandese Patriotic Front. We look forward to concluding this matter early next year.

There are a number of member States which have now established special offices to investigate and prosecute within their territory the offences of genocide, crimes against humanity and war crimes committed by residents. This is a welcome development that can contribute significantly to the global campaign to combat those serious violations of human rights. The Office of the Prosecutor at the ICTR is already providing support to some of those national agencies. It is probable that some of them will continue to operate well after the closure of the Tribunal. But they will continue to require support, particularly with regard to access to the Prosecutor's evidentiary database. We plan in that respect to convene a meeting early in 2008 with a selected number of such national agencies in order to enhance modalities for sharing of information and general cooperation, now and beyond the closure of the Tribunal.

Finally, I would like to express my profound appreciation to the Security Council for its decision of 14 September 2007 (resolution 1774 (2007)) to reappoint me as Prosecutor of the ICTR for a further four-year term, subject to an earlier termination upon completion of the work of the Tribunal.

I wish to acknowledge the support of both the Council and the Secretariat in the discharge of my mandate. I shall do my utmost to discharge my responsibilities in that respect for the effective enforcement of international criminal justice.

The President: I wish to thank Prosecutor Jallow for his comprehensive briefing and for his commitment.

I shall now give the floor to members of the Council.

Ms. Willson (United States of America): The United States welcomes the assessments of the Prosecutors and Presidents of both Tribunals and their progress to date on the completion strategy implementation. The United States notes with appreciation the efforts of Prosecutor Carla Del Ponte and her team, particularly Deputy Prosecutor David Tolbert, in forcefully championing accountability and effectively managing an efficient and successful Office of the Prosecutor. The arrival of incoming Prosecutor Serge Brammertz will ensure that this tradition of excellence continues. We also applaud the judges as well as the hundreds of staff members who, on a daily basis, dedicate their energy and skills to the lasting success and legacy of both of these Tribunals.

As the Tribunals move towards closure, they must maintain their current levels of efficiency. The United States is encouraged by the current pace of trials and by the determination of all Tribunal organs to complete trials as soon after 2008 as is feasible by expediting proceedings, as outlined in their assessments.

The work of the Tribunals in countering impunity will not be complete, however, without the resolution of the fate of the remaining fugitives and the consolidation of each Tribunal's legacy. Nearly 20 fugitives from the Tribunals for the former Yugoslavia and for Rwanda remain at large. The United States calls on all States to fulfil their legal obligations to cooperate fully with the Tribunals.

With regard to the Tribunal for the former Yugoslavia, Serbia, in particular, must take further

steps to fulfil its obligations, especially through the apprehension and transfer of all fugitives who may be on Serbian territory, including Ratko Mladic and Radovan Karadzic. We welcome the improved cooperation of Bosnia and Herzegovina's federal and entity authorities with the Tribunal. We are also encouraged by ongoing efforts of the Governments of the western Balkans to share information and evidence to further domestic prosecutions of war crimes cases. We call on those countries to enhance their cooperation in the future. As Prosecutor Del Ponte reports, regional cooperation remains crucial in apprehending and bringing to justice the remaining fugitives.

Concrete action is also needed from the Democratic Republic of the Congo and Kenya to apprehend and transfer all Rwanda Tribunal fugitives within their borders. Evidence continues to mount that top fugitive and alleged genocide financier Felicien Kabuga remains in Kenya. As Security Council pressure mounts for the Rwanda Tribunal's successful completion, Kenya must fully cooperate with the Tribunal in apprehending Kabuga.

The United States welcomes the 9 November agreement between the Congolese and Rwandan Governments for dismantling the former Rwandan Armed Forces and Interahamwe forces still active in the eastern Democratic Republic of the Congo. We have every confidence that any Rwanda Tribunal fugitive captured during this campaign will be turned over for prosecution.

Mladic, Karadzic, Kabuga and others are charged with horrific crimes, and it is unthinkable that they would escape international justice. They must be immediately captured and prosecuted.

The United States commends the ongoing work of the Tribunals to ensure a lasting positive legacy. Their promotion of domestic capacity within the countries of the former Yugoslavia and Rwanda is central to that legacy. With four Rwanda Tribunal cases currently pending possible transfer to Rwanda, it is imperative that Rwanda's work to improve its justice system be supported. An enduring legacy also requires that each Tribunal's residual issues be addressed meticulously and pragmatically. The United States will work diligently to ensure that those efforts are successful.

We again thank the Presidents, Prosecutors and Registrars for their service to the Tribunals, to justice and accountability and to the people who gave rise and purpose to these institutions: the victims.

Ms. Pierce (United Kingdom): I too would like to extend our thanks to the Presidents of the Courts, Judges Pocar and Byron, and to the Prosecutors, Ms. Del Ponte and Mr. Jallow, not only for their briefings today, but for the tireless commitment with which they work for justice in their respective areas. My delegation would wish, through them, to pass on our thanks to their teams for all of their efforts on these issues.

I would like to start first by talking about the International Criminal Tribunal for the Former Yugoslavia. I would like to start on that by paying a tribute to the Prosecutor, Ms. Del Ponte, as she makes her last appearance before the Security Council. I want to express the United Kingdom's deep gratitude to her. Her tireless efforts have kept the ICTY at the forefront of the battle against impunity. The Tribunal has achieved a very great deal during her tenure, which has culminated in justice for many victims of terrible crimes. I think the numbers speak for themselves. Only four indictees remain. As I will say later, however, that is obviously too many.

Ms. Del Ponte has made an immense contribution to international justice. We have worked very closely with her in the European Union, and we have all benefited from the dedication and issues of principle that she has brought to her role. We wish her success in her new role, and we recognize again the contributions of all members of her staff, and particularly the senior managers, such as the Deputy Prosecutor, whose commitment and leadership have played a significant role in the Tribunal's achievements.

Finally, I would like to welcome the recent appointment of the new Prosecutor, Mr. Serge Brammertz. We wish him every success as he leads the Office of the Prosecutor through what will clearly be an important time and what may possibly be the final phases of its activity.

The Prosecutor concentrated on Radovan Karadžić and, especially, on Ratko Mladić. Resolutions 1503 (2003) and 1534 (2004) expressly cite those two fugitives by name. The third name on the list in those resolutions, Ante Gotovina, is in The Hague today, and his country, Croatia, stands on the verge of European Union membership and will be a member of this Council next year. That is a substantial achievement.

In contrast, the Prosecutor's account of how little progress has been made in Serbia, over Mladić in particular, is extremely disappointing, to say the least. It is disappointing to the Prosecutor and to those of us who uphold the Tribunals. It is disappointing in terms of Serbia upholding her European commitments. And, above all, it is a lasting insult to the more than 7,000 victims of Srebrenica, the worst massacre in Europe since the end of the Second World War.

I would like to use this occasion today to underline that full cooperation with the Tribunal remains an ongoing obligation of all States, as resolutions 1503 (2003) and 1534 (2004) and Chapter VII of the Charter make clear. The capture and transfer of Karadžić and Mladić are essential and should remain the highest priority for all. Full cooperation and the arrest of the remaining fugitives wherever they are — and they do not have to be in Serbia — are also essential. I would like to recall briefly that Gotovina was eventually located in Spain, with the help of the Spanish police.

The arrest of the remaining fugitives remains central to the reconciliation required for long-term stability in the Balkans. There can be no question of any of the fugitives being allowed to wait out international justice. We call on Serbia to take the necessary steps to ensure their transfer to the Tribunal without any more delay.

On the completion strategy, I think that it is clear that the United Kingdom remains a strong supporter of the ICTY. We believe that the orderly completion of its important work is vital for the region and for international criminal justice. We recognize and commend the considerable efforts of all of the Tribunal's organs to increase efficiency and the pace of trials and their achievements in that regard. We urge the Tribunal to continue such efforts and to reduce delays as much as possible. We look forward to hearing of further progress.

We note with appreciation the initial work done by the Tribunals on their legacy and the residual issues that will remain after completion. We look forward now to the Council's working group starting to address these issues substantively, and we express hope that early progress can be made towards a coherent framework for dealing with these matters in relation to both Tribunals and to the Special Court for Sierra Leone. We want to be absolutely clear that we agree with the Tribunals that there is no suggestion that the ICTY should automatically close after its time scales have expired. It is important that the international community support the efforts of the ICTY and those of the Rwanda Tribunal to try the most high-profile indictees in their courts. That is the implication of the two resolutions I have mentioned today.

I would now like to turn to the International Criminal Tribunal for Rwanda (ICTR). We do congratulate this Tribunal on its continued progress towards completing its caseload. We welcome Judge Byron's confirmation that, in broad terms, the completion strategy remains on track. We would like to urge the Tribunal to redouble its efforts to ensure that that is the case.

As other speakers have said, it is deeply concerning that there are still 14 indictees at large and that these include Félicien Kabuga. Those individuals must not be allowed to evade justice. Again, we call on all States to fulfil their obligation to cooperate with the ICTR, and we stand ready to do whatever we can to assist the Tribunal. We are particularly concerned that reports continue that Kabuga may be in Kenya. We look to Kenya to cooperate fully and promptly with the Prosecutor and welcome the recent assurances it has given in this respect. We hope that everybody involved will do all they can to ensure that Kabuga is swiftly brought to justice in Arusha.

We are also deeply concerned about the reports of the number of indictees that remain at large in the eastern part of the Democratic Republic of the Congo and that some may be active in the Forces démocratiques de libération du Rwanda (FDLR). We urge the Government of the Democratic Republic, with full support from the United Nations Organization Mission in the Democratic Republic of the Congo, to take all necessary measures to arrest and transfer any indictees on its territory.

In conclusion, I would just like to renew our thanks to both Tribunals and their staffs and to say that we look forward to working with them in the months to come.

Mr. Burian (Slovakia): We wish to thank Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), as well as the respective Prosecutors for both Tribunals, for their assessments

and reports concerning the progress made towards the implementation of the completion strategies as set out in resolutions 1503 (2003) and 1534 (2004).

Slovakia appreciates efforts that both Tribunals are devoting to meeting time frames and deadlines for the completion of their work. We would like to express our support in full recognition of all who are participating in this process. We commend the strengthened cooperation of the Tribunals with the national authorities of their respective countries, in particular, with the domestic courts of Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Rwanda. We highly appreciate the increasing number of referrals of cases involving intermediate and low-ranking accused individuals to competent national jurisdictions and the efforts of the ICTY and the ICTR to help to build the capacities of national courts in order to deal with those cases.

We believe that these measures should enable both Tribunals to focus on the prosecution and trials of the most senior leaders suspected of being most responsible for crimes under international law. Slovakia insists on strict compliance of trials on the national level with international standards of fairness and due process.

Regrettably, as we heard from Judge Pocar and Judge Byron, some of the most important indictees remain at large, running away from international justice. We wish to underline that it is not acceptable that perpetrators of serious international crimes evade justice and legal proceedings. In this context, we reaffirm our strong appeal to States concerned to cooperate fully and expeditiously with the Tribunals, in particular in the tracking, arresting and transferring of remaining fugitives to the Tribunals. Without bringing these suspects to justice, the work of the Tribunals cannot be fully completed and their main mission will not be fulfilled. We cannot — and must not — allow the perpetrators of the worst crimes under international law to go unpunished.

Slovakia also gives high marks to the Outreach Programmes' activities to strengthen the understanding of and the confidence in the work of the ICTY and ICTR among the people of their respective regions as a contribution to national reconciliation. Extending current outreach activities, especially to members of communities affected by crimes being prosecuted by the Tribunals, and leaving a clear legacy of international jurisprudence are key components of a wider system of international criminal justice.

Residual issues of the Tribunals seem to be the most crucial issues for the next months. We call upon the respective States to pay adequate attention to this problem and to solve questions connected with the completion of the Tribunals' work on the basis of the final legacy report submitted by the Tribunals.

In conclusion, we would like to use this opportunity to thank Ms. Carla Del Ponte for several years of outstanding work in her capacity as Prosecutor of the International Tribunal for the Former Yugoslavia, and we wish her success in her future work.

Mr. Chávez (Peru) *(spoke in Spanish)*: My delegation would like to thank the Presidents of the two Tribunals, Judge Pocar of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Judge Byron of the International Criminal Tribunal for Rwanda. We also thank the Prosecutors, Ms. Del Ponte and Mr. Jallow, for their written reports and their presentations this morning and, above all, for all the work they are doing in their various departments.

We are grateful for the progress made by the Tribunals to prosecute those who committed atrocious crimes in the former Yugoslavia and in Rwanda. Efforts to complete the work within the deadlines are laudable. However, we feel that in cases where that is not possible, the Security Council will have to assess the way to make the resulting necessary adjustments.

The work of these Tribunals necessarily requires the full cooperation of States in order to overcome impunity and provide justice to the victims. We are encouraged by the fact that between June and October of this year, four fugitives in cases before the Tribunal for Rwanda were arrested. However, it is disgraceful that to date Radovan Karadzic, Ratko Mladic and Felicien Kabuga, among other important leaders accused of having commited serious crimes, are still at large.

It is not acceptable that as time goes by and deadlines pass, impunity can be established. That is why it is both indispensable and urgent that all States meet their international obligations to detain and transfer the accused to the relevant Tribunal. The Security Council should take this situation into account when it considers the future of the Tribunals so that

when the fugitives are finally arrested, there will be mechanisms in place for them to be brought to justice.

In another aspect relating to cooperation, the Office of the Prosecutor for the ICTY referred in its report to the need for the United Nations Interim Administration in Kosovo (UNMIK) to cooperate with it in the protection of witnesses. We once again urge UNMIK to work with the Prosecutor's Office, and we hope that the situation referred to in the report will cease.

The transfer to competent national jurisdictions of trials of accused of medium and low rank is an integral part of the completion strategies. We recognize the work being done by both Tribunals in that respect, particularly with regard to strengthening the capacity of local judicial systems. The impact of those tasks is not exhausted with the prosecution of the accused but generates an important long-term repercussion for the rule of law and for the improvement of the administration of justice in the countries concerned. That is why we join the call for States involved in those cases to be given the necessary international help.

With regard to the legacy of the Tribunals upon finishing their tasks and creating a mechanism to deal with residual issues, we are grateful for the valuable contributions of the Tribunals. We continue to feel that the Security Council should consider those matters with the necessary anticipation, taking a broad view that includes the States directly involved, similar tribunals and civil society. Regarding specifically financial implications, that consideration should also be expanded to include the other Members of this Organization.

Those administrative and financial matters are more important that they may appear. As was pointed out by the Presidents of both Tribunals, the Tribunals' work could be affected if qualified and experienced staff leave to look for more stable employment. We therefore feel that those concerns should be given due regard in the relevant administrative requests.

In conclusion, I would like to reiterate once again the firm commitment of Peru to the current work of the International Criminal Tribunals for the Former Yugoslavia and Rwanda and to their important task of combating impunity.

Mr. Al-Nassar (Qatar) (*spoke in Arabic*): I should like at the outset to thank you, Mr. President, for having convened this meeting, and to extend our thanks also to Judge Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY); Judge Byron, President of the International Criminal Tribunal for Rwanda (ICTR); Ms. Carla Del Ponte, Prosecutor of the ICTY; and Mr. Hassan Bubacar Jallow, Prosecutor of the ICTR, for their excellent informative and comprehensive briefings and for their progress reports on the implementation of the two Tribunals' completion strategies.

The Tribunals continue to work to improve the completion strategies, with the support of the Security Council and in accordance with its resolutions 1503 (2003) and 1534 (2004). They continue to take steps at various levels in order to complete those strategies by the end of 2008. While we recognize the need for the Tribunals to finish their work by the deadlines set, we would like to stress strongly that there must be a balance between respecting such time frames and ensuring the full implementation of the their mandates in an effective and satisfactory manner that guarantees full rights and a fair trial for all indictees.

The establishment of the two Tribunals demonstrates the determination of the international community and commitment of the United Nations to administer justice and put an end to impunity by bringing to justice those responsible for the most heinous crimes against humanity. However, that determination and commitment must be matched by a continued commitment by the Security Council and all States concerned to arrest, transfer and bring to justice those major indictees who are still at large. Justice cannot be complete while these primary indictees remain at large before the eyes and ears of the international community.

We therefore call upon Governments and States concerned to fulfil their commitments and responsibilities to the international community, in accordance with the relevant Security Council resolutions, mainly by arresting and transferring the fugitives, foremost among them Mladić, Karadzic and Kabuga, and by pledging full cooperation for access to records and witnesses. We call once again upon the Security Council to supervise a strict implementation of those resolutions.

Now, during the two Tribunals' final years, we must focus on their legacy — a significant legacy of international jurisprudence that can benefit and guide future courts. We call upon the Tribunals to continue their efforts to carry out their work till its completion, because the victims of those heinous crimes are pinning great hopes on them for the administering of justice and peace.

The work of the two Tribunals contributes significantly to the achievement of security, stability and national reconciliation. We believe, however, that they cannot complete their work until they bring the principal indictees to justice. That will require the full cooperation of all States concerned in handing them over, with a view to restoring security and stability in the regions.

Mr. Suescum (Panama) (*spoke in Spanish*): At the outset, we wish to thank the Presidents and Prosecutors of both International Tribunals for the reports they have submitted to us.

It is important to recognize that, as we enter the final stage of the lengthy work completed by the Tribunals, the balance sheet certainly appears to be positive. Both Tribunals have made progress on the tasks entrusted to them of bringing peace, justice and reconciliation to the Great Lakes and the Balkan regions.

We congratulate all their personnel, and we thank them for their efforts. And today we wish to offer very special thanks to Prosecutor Carla Del Ponte for all her work and to wish her every success in her future endeavours.

We take note of the cooperation of the Serbian authorities in the detention of Mr. Tolimir and Mr. Djordjevic, both indicted by the International Tribunal for the Former Yugoslavia. Serbia is to be commended for that cooperation and must now attempt to capture the individuals who remain at large, including Radovan Karadzic and Ratko Mladic. Our delegation also recognizes the cooperation of the German authorities in ensuring the detention of Augustin Ngirabatware in September, who had been sought by the International Criminal Tribunal for Rwanda since 2001.

Although the Tribunals were not created as permanent institutions, their work must be completed in full. It is very important, therefore, that they have the judicial and administrative staff and infrastructure necessary to ensure that their residual functions can be completed with the same degree of diligence we have witnessed in their work to date. We note and are grateful for the studies and proposals prepared by the Tribunals with respect to residual matters. We agree that the Council must give serious consideration to those functions so as to provide jurisdictional mechanisms to address the cases and judicial processing of fugitives who are apprehended after 2010. We must also look carefully to such issues as the protection of witnesses, without whom the cases under way may be affected.

Finally, we consider it of great importance to pay heed to the considerations and concerns expressed by both Tribunals with regard to retaining experienced staff. Undoubtedly, that issue can have a negative impact on the Tribunals' work. We recognize and are grateful for the measures taken this year by the Secretariat in that respect, and urge it take any additional steps necessary to ensure that the Tribunals have adequate personnel for the timely completion of their work.

Ms. Chen Peijie (China) (*spoke in Chinese*): At the outset, I wish to thank President Pocar, Prosecutor Del Ponte, President Byron and Prosecutor Jallow for their briefings on the work of the two Tribunals.

We note the ongoing progress made in the work of the two Tribunals, including their continued improvement of procedures to achieve high efficiency in the trying of cases. The Tribunals attach great importance to cooperation with national judicial organs and have made the referral of cases to national jurisdictions a core element of the completion strategy. All such achievements should be fully acknowledged.

The progress has also led to confident optimism about the Tribunals' implementation of the completion strategy. We hope that the two Tribunals will place greater trust in concerned countries in the respective regions and give them greater opportunities. We appeal to Members in a position to do so to provide further financial and technical support so as to allow the countries concerned to gain the required capacities as soon as possible so that they may assist the Tribunals in making referrals in as systematic and timely a manner as possible. In that respect, the assessment prepared by President Pocar notes that

> "[t]he international community must not underestimate the importance of the courts in the States of the former Yugoslavia having the capacity to carry on the legacy of this International Tribunal long after it has completed its mission" (*S/2007/663, para. 39*).

Of course, the two Tribunals are also facing certain problems and difficulties, including witness protection, cooperation with all States and staff retention, among others. We wish to express our concern in that regard and hope that the Tribunals and all sides concerned will make the most strenuous efforts to enhance cooperation and resolve those problems appropriately.

As to the Tribunals' legacy, we welcome the fact that they have again submitted an amended joint report. We will participate in the consideration of the follow-up programme in that regard. In our view, the principles and time frames for the completion strategy established by the Security Council should be scrupulously adhered to. The Tribunals should continue to formulate their work programmes with the achievement of that objective in mind. At the same time and on that basis, they should consider how best to address the issue of residual functions and prudently offer an appropriate plan thereto.

In the course of implementing the completion strategy, the two Tribunals are sure to encounter obstacles and complications. We believe, however, that so long as all sides demonstrate good faith and strengthen cooperation, those problems can be readily resolved.

Mr. Renié (France) (*spoke in French*): First of all, I should like to thank Presidents Pocar and Byron and Prosecutors Del Ponte and Jallow for their detailed briefings and for the effective work they and their teams have been doing at the head of both Tribunals.

When it acted under Chapter VII by creating the two International Tribunals for the former Yugoslavia and Rwanda, the Council sought to send a clear message to the entire international community that there would be no impunity for the most serious crimes committed against humanitarian law, genocide, crimes against humanity or war crimes.

Almost 15 years later, we are able to commend the manner in which both Tribunals have contributed, in their respective fields of competence, not only to rendering justice, but also to easing tensions and restoring peace and security. They have been at the forefront of international criminal justice, which we expect both to punish those who commit especially horrible crimes and to deter others from doing so in the future.

We are not here today to take stock of the Tribunals' work, but we can affirm that they have met our expectations of them. In 2003 and 2004, the Council identified the time frame for the completion strategy for the work of the Tribunals. It asked the two Tribunals to take every step in their power to stay within their deadlines. It also urged all States, in particular those of the regions concerned, to cooperate fully with the Tribunals in order that they may complete their work within the time specified. It emphasized the need for the international community to help strengthen the capacity of the national jurisdictions concerned so that they could deal with the cases referred to them.

We have heard today briefings by the Presidents and Prosecutors in which they took stock of the efforts made to speed up and improve procedures. We also heard statements regarding certain requirements pertaining to the use of human resources, in particular as regards ad litem judges and the organization of appeals chambers. Lastly, we have taken note of references to judicial considerations that may hinder the meeting of the deadlines set by the Council for the completion of work. We are committed to respecting those deadlines as much as possible.

Resolution 1534 (2004) underscored the importance that the Council attaches to the deadlines. Insofar as the Tribunals have been asked to take every step in their power to respect the deadlines, those deadlines are nevertheless guidelines. Certain elements — including, for example, the arrest and transfer of fugitives — are outside their control. It is crucial and necessary that justice be done with regard to those bearing the greatest responsibility. In that connection, I would like in particular to reaffirm the commitment of France to ensure that Mr. Kabuga, Mr. Karadžić and Mr. Mladić be handed over to justice. We also emphasize the importance of cooperation by countries of the regions concerned in that regard.

We take note of the information provided with regard to not meeting deadlines. We ask the two Tribunals to do everything they can to reduce delays as

much as possible. On the basis of the joint document circulated by the Tribunals, the Council and the Tribunals must also seriously carry out the work that must be done to identify the legacies of the Tribunals and the decisions that need to be taken with regard to residual functions that must be continued following the completion of their work. That work is highly technical and must be done very methodically, in full cooperation with the staff of both Tribunals.

Finally, I would like to thank Ms. Del Ponte, who is leaving her post and who has expressed her disappointment. I think that the work she has done for many years on behalf of both Tribunals will allow her to leave with a clear conscience.

Mr. Verbeke (Belgium) (*spoke in French*): I too would like to thank Presidents Fausto Pocar and Dennis Byron and Prosecutors Carla Del Ponte and Hassan Bubacar Jallow for their reports and statements today. Belgium would like to reiterate its ongoing support for the Tribunals in their fight against impunity, their work to restore the rule of law and their contributions to national reconciliation. We believe that support should be especially forceful, at a time when the demand for international criminal justice is unfortunately often neglected, or even relegated to a secondary concern. I should also like to reiterate the tribute I paid to Ms. Del Ponte last June for the determination and vision with which she carried out her work. I wish similar success to her successor, Serge Brammertz.

The reports of the two Tribunals convincingly set out the efforts made to implement the completion strategies for the Tribunals' work. We all regret the fact that the work of the International Tribunal for the Former Yugoslavia in the area of trial proceedings must be extended beyond the end of 2008. Nevertheless, it seems that, as compared to the original date, the delay is due to circumstances that are completely beyond the control of the Tribunal and to other unforeseen issues.

In that context, we think it is important to recall that Belgium believes that the deadlines for the completion of work established in resolution 1503 (2003) are guidelines that can be extended if there are valid reasons. As it did in June, my delegation calls upon senior officials of both Tribunals to continue their efforts to ensure that, to the extent possible, the work is completed within the deadlines referred to in resolutions 1503 (2003) and 1534 (2004).

My delegation appreciates the problems caused by the departures of some highly qualified Tribunal staff, as well as by other administrative and organizational matters referred to here by the representatives of the Tribunals. Moreover, we recognize that the Security Council cannot ask the Tribunals to complete their work within certain deadlines without providing them with the reasonable resources needed to complete their work.

The Tribunals will not be considered as having properly rendered justice if indicted fugitives are not tried. That is especially true of fugitives accused of the most serious crimes, including Radovan Karadzic, Ratko Mladić and Félicien Kabuga. We call on all States concerned to fully cooperate with the Tribunals, as they are obliged to do, in order to apprehend those persons and transfer them to The Hague.

Belgium takes note with regret of the information provided by Ms. Del Ponte today regarding Serbia's deteriorating cooperation with the Tribunal. We urge the Belgrade Government to do everything possible to fully cooperate with the Tribunal.

Finally, the residual functions that must be carried out following the closing of the Tribunals as they are currently constituted must be addressed without further delay. The joint study carried out by the Tribunals clearly identified the various residual functions. That is an excellent basis for the work of the Security Council. Belgium is prepared to take an active and responsible role in that essential discussion.

Mr. Okio (Congo) (*spoke in French*): I should like to express our sincere thanks to you, Mr. President, for organizing this debate on the activities of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 (ICTR).

As everyone is aware, the periodic evaluation of the activities of the two Tribunals provides us an opportunity to assess the progress made in combating

impunity. Congo would therefore like to reiterate its gratitude to Presidents Fausto Pocar and Dennis Byron and Prosecutors Carla Del Ponte and Hassan Bubacar Jallow for the reports they have just given us, which provide us a broad overview of the work done, and especially for their steadfast personal commitment to accomplish their heavy workloads.

In considering those various reports and assessments, my delegation has reached several crucial conclusions with regard to both the current work of the Tribunals and their subsequent work, in particular with regard to the end of their respective mandates in accordance with the completion strategy established by resolutions 1503 (2003) and 1534 (2004). With regard to the work of the Tribunals to date, we note several positive aspects, in particular the resolute determination to carry out their activities in a very speedy manner. Evidence of that is clear from the numerous rulings that have been handed down, the arrests of those presumed guilty of the crime of genocide and serious violations of international humanitarian law and the referral of cases to States for judgement and sentencing. In that regard, my delegation would like to congratulate the Presidents and Prosecutors of both Tribunals, as well as all their staff, for the results they have been able to achieve, not only in rendering justice but, above all, in being able to promote a return to national peace and reconciliation in two countries that have been so torn apart. I note with satisfaction the persistent efforts of the two Tribunals to bring about a significant reduction in the number of cases being heard. To date, as mentioned in the briefings this morning, 106 of the 161 accused have received final judgements by the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda has completed proceedings for 35 accused. At the same time, efforts were deployed to strengthen the Rwandese judiciary system.

Whatever the difficulties encountered, all of those elements represent significant progress in the area of international criminal justice. The results achieved will always remain a source of inspiration for the United Nations and the entire international community. However, several areas of concern persist with regard to the good functioning of the two Tribunals and the completion of their work within the desired deadlines.

It is indeed extremely urgent that we deal with concerns that have been highlighted in the reports and in the presentations made this morning, particularly the issue of the arrest of indictees who are still at large, and who receive support from various sources. In that respect, several matters that have been mentioned highlight the lack of urgency on the part of certain States to meet their international obligation to cooperate in the arrest of those under suspicion for the most serious crimes. The fact that four main accused in the former Yugoslavia — Karadžić, Mladić, Župljanin and Hadžić — still remain at large and that 14 Rwanda fugitives are still at large gives the frustrating impression of incomplete work.

I share, in that regard, the disappointment expressed by the Prosecutors with regard to the behaviour of certain States. Congo deplores that lack of cooperation and reaffirms that the fight against impunity must involve us in a common cause if we want to achieve better results. The Council must therefore take into account the demands of justice and fight against impunity and ensure that we bring strong pressure to bear on Member States that are not inclined to cooperate actively with the International Criminal Tribunals.

Moreover, the requirement for States to cooperate with the Tribunals should also go hand in hand with diligence by those States in enabling those acquitted to return home. That is also a requirement of the rule of law. Let us not lose sight of the fact that the Tribunals were not created simply to provide justice to the many victims of the serious crimes committed in the territory of the former Yugoslavia and Rwanda, but also to fight against impunity, build peace and promote the rule of law.

As highlighted in the reports under consideration, the work of the two Tribunals is currently undergoing a necessary acceleration, with a view to implementing the Completion Strategies in 2008 for first-instance trials and 2010 for appeals. This is therefore an important point in time, and, in my delegation's opinion, we should intensify our consideration of the matter, including on the flexibility that the Council could show in the event that the Tribunals are unable to complete their work within the established deadlines.

My delegation would like to express its concern with regard to the various difficulties encountered in the relocation of witnesses, the carrying out of sentences and the retaining of the staff necessary for completion. We support the idea of creating a loyalty

bonus to encourage officials to remain on board until the work is completed.

It is thus extremely that States make available to the Tribunals sufficient human and financial; resources to enable them to fully implement their completion strategies.

As we said a few days ago, we welcome the appointment of Mr. Serge Brammertz as Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991. We would also like to express our profound gratitude to Ms. Carla Del Ponte, whose dedication, courage and determination to bring about the arrest of indictees at large deserve the full recognition of my delegation. We wish her every success in her future activities.

Mr. Maqungo (South Africa): My delegation wishes to thank Mr. Fausto Pocar, President of the International Criminal Triounal for the Former Yugoslavia (ICTY), and Mr. Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), for their statements introducing the work of the International Tribunals. We also wish to thank Mr. Hassan Jallow, Prosecutor of the ICTR. As this is the last time we will have this opportunity, we also wish to express the deepest appreciation and gratitude of the South African Government to Ms. Carla Del Ponte, the outgoing Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, for her sterling service to humanity and for being the unwavering symbol of the unrelenting force of international justice. We wish her success in her future endeavours.

My delegation commends both Tribunals for the steps they are taking to ensure that they achieve their completion strategies. In particular, we welcome the measures taken to increase the efficiency of the Tribunals in processing trials by holding a high number of trials simultaneously, making amendments to the rules of procedure for the purpose of expediting proceedings and making optimum use of ad litem judges.

The completion strategies are time-bound and therefore, notwithstanding the steps the Tribunals are taking to increase efficiency, there are cases that, due to the passage of time and, possibly, an inability to effect arrests, would have to be referred to national jurisdictions. However, there seems to be an existing view that there are some cases that, due to their nature, merit the re-establishment of a Tribunal to deal with them, even if arrests were made after the courts had closed. We are studying those issues, as we are currently yet to be convinced as to whether that would be absolutely necessary.

We view referrals to national jurisdictions as central to achieving the completion strategies set in resolution 1534 (2004), including for any other cases that may arise due to future arrests of individuals still at large after the Tribunals have closed. We therefore commend the various countries that have accepted cases from the Tribunals. We are, however, particularly keen to see the situation countries where the crimes were committed assume the responsibility of accepting referrals from the Tribunals. We therefore welcome any efforts to provide technical assistance to the situation countries in order for them to reform their justice and prison systems to better absorb the cases from the Tribunals.

We have heard, with regard to the issue of acquitted persons, that some of them are still under the protection of the Rwanda Tribunal in Arusha. Our expectation is that individuals who are acquitted have the right to return to their country of nationality. The issue of whether those countries of nationality might not be willing to receive those individuals will therefore be of interest to us. It will also be of interest to us whether those individuals themselves have any legitimate fears with regard to persecution, in which instance their cases will have to be dealt with in a manner consistent with the relevant laws pertaining to refugees.

In both Tribunals there are indicted persons still at large, and some of them are particularly high-level accused or are alleged to have committed crimes that ideally should be dealt with at the international level. For the ICTR, the Prosecutor has mentioned Félicien Kabuga and we have heard at length of the interaction between the Office of the Prosecutor and the Government of Kenya regarding that issue. We encourage this interaction.

As to the International Criminal Tribunal for the Former Yugoslavia, the fugitives to be mentioned are Radovan Karadžić and Ratko Mladić. We have heard at length from Madam Carla Del Ponte on this issue. She has indicated her disappointment with regard to this

problem. It is our hope that these fugitives will ultimately be brought to justice, and we call for full cooperation with the Tribunals to arrest and surrender them for trial.

The fact that the Tribunals are approaching completion of their task means that we must ensure that they continue to receive sufficient resources to enable them to complete their work and their mandate. In this light, we shall take up the request of which Judge Byron spoke regarding authorizing the Secretary-General to take all reasonable measures to ensure that the Rwanda Tribunal is able to retain its staff for its Completion Strategy. We must, as States, continue to extend cooperation with respect to the travel of witnesses and the arrest and transfer of the accused, and we should look into the issue of resettlement of individuals who are acquitted by the Tribunal.

Furthermore, we need to address the issue of the legacy that will be left by these Tribunals and ensure that we preserve their achievements.

Mr. Rogachev (Russian Federation) (*spoke in Russian*): Mr. President, allow me to thank the senior officials of both Tribunals for their briefings and for the reports submitted to the Security Council about the status of implementation of the Completion Strategy.

We are also grateful for the interesting proposals contained in the revised document on the future legacy of the Tribunals being considered by the Security Council Working Group. We will search for the best possible options regarding the proposed mechanisms for the residual competence of the Tribunals.

We note that the International Criminal Tribunal for Rwanda (ICTR) has been working productively over the last six months. The arrest of four indictees during this period and the speeding up of criminal proceedings regarding those persons in the custody of the Tribunal attest to some clear progress in carrying out the tasks of the ICTR.

We welcome the efforts of the ICTR to clear their caseload and to refer cases, when possible without any detriment to the principles of justice to national jurisdictions. In this context, efforts to develop the justice system of Rwanda, including capacity-building, to judge cases referred by the Tribunal to it become increasingly urgent.

The International Criminal Tribunal for the former Yugoslavia (ICTY) report also shows that the Tribunal is making efforts to implement its Completion Strategy. However, one cannot fail to be worried by the assessments contained by the President and by the Prosecutor regarding projected dates for the completion of trial hearings and appellate proceedings. I would like once again to note the position of principle of the Russian Federation, which is that both Tribunals must be guided by the deadlines established by the Security Council and do everything within their power to make sure that the work is completed by the end of 2010.

The fact that certain indictees are not in the custody of the ICTR and the ICTY cannot be considered as justification for an unlimited extension of the activities of these bodies. In the context of the ICTY, we think it is important to take bolder action to refer the cases of indictees to the consideration of the courts of the States of the region.

I would like to dwell in particular on the question of cooperation with the Tribunal in the area of witness protection. I would like the Council members to look at paragraph 35 of annex II of the report of the President of the ICTY (S/2007/663). The Prosecutor quite specifically refers to the presence of difficulties facing the Tribunal in getting evidence from witnesses in the *Ramush Haradinaj et al* case. Many witnesses are refusing to provide evidence out of fear for themselves and for their family members.

Once again, I would stress, the Prosecutor is reporting to the Security Council that her Office would like to draw on assistance to be provided by the United Nations Interim Administration Mission in Kosovo (UNMIK) in the question of witness protection. However, the chances of this kind of assistance remain illusory, since, according to the report, indictee Haradinaj enjoys the support of senior representatives of UNMIK. I would request the Prosecutor explain in greater detail the information provided in her report in this matter?

Once again, we call upon Security Council members to pay very close attention to our proposal that was put forward some time ago about working out the Council's reaction to this scandalous situation.

Mr. Tachie-Menson (Ghana): Allow me first to join members in thanking the President of the International Criminal Tribunal for the Former

Yugoslavia (ICTY), Judge Fausto Pocar, the President of the International Criminal Tribunal for Rwanda (ICTR), Judge Dennis Byron, the Prosecutor of the ICTY, Madam Carla Del Ponte, and the Prosecutor of the ICTR, Mr. Hassan Jallow, for their detailed reports. We are impressed by the commitment and professionalism shown by the Presidents, Judges, Prosecutors and staff of these Tribunals, who are in the forefront of the international community's efforts to combat impunity for the most serious crimes.

On the International Criminal Tribunal for the former Yugoslavia, we note with satisfaction the fact that out of 161 accused under indictment, only 11 remain in the pre-trial stage, even though four accused persons are still at large. We also would like to commend the role of the ad litem judges, who also contributed to this achievement.

The issue of referral of cases to competent national jurisdictions is another important means, not only of reducing the work load of the Tribunal, but also of putting it on course towards the successful implementation of its Completion Strategy. We consider the Tribunal's Outreach Programme as essential to educate people, not only on the role of the Tribunal, but also on the task of putting in place systems of justice in the post-conflict areas. This people-centred and grassroots approach is indispensable to the efforts of the international community to build institutions that will entrench the rule of law in the affected areas.

Linked to this is the question of capacity-building, which is critical to enhancing the capacity of the national jurisdictions to enable them to handle referred cases and legacy issues.

On the subject of cooperation, we call on all States to meet their obligations in such areas as assisting in the tracing and arrest of fugitives and in whatever areas of assistance may be required by the Tribunal. Without this cooperation, the effectiveness of the Tribunal and its Completion Strategy would be undermined. It is necessary that a clear message is sent to the accused persons still at large that they cannot play a waiting game.

On this point, it is disappointing that four fugitives, including two of the most notorious, are still at large. We urge the relevant States to take the necessary steps to apprehend these fugitives and bring them to justice.

We wish to express our concern about reported cases of witness intimidation and call for the setting up of an effective and permanent witness protection programme. This is both a moral and a legal duty owed to those who risk their lives to give crucial testimony in some of these trials.

With regard to the International Criminal Tribunal for Rwanda, we are again impressed with the progress made in the disposal of cases. We note the difficulty faced by the Tribunal in seeking to have some of the cases referred to competent national jurisdictions, particularly in Africa. We believe that in order to make some of these transfers possible, the Tribunal may have to put in place capacity-building and technical assistance programmes in the target countries, some of which have overburdened judicial systems.

The international community should provide the Tribunal with the necessary resources to ensure the success of this programme. This will reinforce the outreach activities of the Tribunal, which are a key contribution of the Tribunal in bringing peace and national reconciliation to Rwanda. We are certain that, by its work, the Tribunal will leave behind a legacy of justice and respect for the rule of law — which is at the core of peace, stability and security in the region.

We wish to touch on the crucial subject of the completion strategy and legacy issues for the two Tribunals. The international community is soon to be confronted with legacy issues, particularly the question of fugitives at large, review of judgements, supervision of prison sentences and archives. It is clear that a downsized version of the Tribunals will have to be in place to tackle these issues for the sake of continuity. In this regard, we wish to say that, for practical reasons and as a matter of principle, we do not regard the completion strategy as a fixed and rigid deadline. It is our view that there must be flexibility to enable all outstanding cases and issues to be concluded. National jurisdictions may have a role to play in assisting the downsized Tribunals in that regard. That is the only way the Tribunals can discharge their mandate successfully and leave behind a lasting legacy in the fight against impunity and also in strengthening international humanitarian law.

Finally, my delegation wishes to express appreciation to Ms. Carla Del Ponte, the outgoing Prosecutor of the ICTY, for her dedicated pursuit of

justice and for her sterling service to the Tribunal and the international community.

Mr. Kleib (Indonesia): Let me first of all join other speakers in welcoming the Presidents and the Prosecutors of both Tribunals to the Council and in thanking them for their respective reports and insightful briefings. At this opportunity I would also like to pay tribute to Ms. Carla Del Ponte whose term is coming to an end soon, for her outstanding work, dedication and important service in the cause of justice.

Indonesia reiterates its support for the effective contribution of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) in bringing those who were responsible for crimes against humanity in the former Yugoslavia and in Rwanda to justice.

My delegation underlines the importance of the completion strategies, which are instrumental in the streamlining of the final phase of the functioning of the ICTY and the ICTR. We therefore commend both Tribunals for the concrete steps they are taking to ensure the timely implementation of the completion strategies. We also note that they have made significant progress towards completion of their work.

With a view to focusing on their legacies and on mechanisms that will remain in place following the completion of the work of the Tribunals, my delegation stresses the importance of possible residual functions. We are of the view that the issue of residual functions is multi-faceted and involves legal and political considerations. The Security Council, for its part, should appropriately address the issue and discuss it in a systematic and comprehensive manner and in the framework of a broad and inclusive process involving related States, similar tribunals and civil society. It would also be useful to consider lessons learned from the residual functions of the post-Second World War international military tribunals.

In the view of my delegation, the most essential residual function to which the Council should pay special attention is the trial of fugitives. We believe the two Tribunals cannot fully complete their work until they bring the principal indictees to justice. That requires full cooperation on the part of all States concerned, with a view not only to bringing them to justice, but also to regaining stability in the regions concerned.

Another significant feature of the two Tribunals' completion strategies that relate to the residual functions is referral of cases to national courts. My delegation recognizes the merit of and challenges posed by such a step. In that regard, we attach particular importance to capacity-building programmes for national courts. We commend the efforts of the Tribunals to continue in the strengthening of their cooperation with respective national authorities, in particular with domestic courts of Rwanda and the States of the former Yugoslavia. We support in that regard the continued assistance of the international community to develop the domestic judicial capacity of relevant States, so as to ensure that all referred cases are conducted in full compliance with the standards of due process.

Finally, let me reiterate our firm commitment to continue to cooperate with the Tribunals to ensure that their mandates are fully discharged, including in the implementation of the respective completion strategies.

The President: I should now like to make a statement in my capacity as the representative of Italy.

Let me first associate myself with previous speakers in thanking President Pocar and President Byron, as well as Prosecutor Del Ponte and Prosecutor Jallow for their presentations to the Council. Italy commends the tangible progress made in pursuing the completion strategies, through the strong commitment of both Tribunals, their Judges and Prosecutors, as well as their staffs.

I would like to seize this opportunity to thank Prosecutor Del Ponte for her passionate commitment, dedication, determination and consistent prosecutorial activities aimed at bringing an end to the culture of impunity of the past years, and we wish her all success in her future endeavours.

At the same time, I would like to reiterate my congratulations to Mr. Serge Brammertz on his appointment as Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to wish him every success in the accomplishment of his task.

It is with satisfaction that we note that cooperation with the Tribunals by all relevant parties has improved. Cooperation is now more crucial than

ever. As far as fugitives are concerned, there is little need to recall that it is imperative that pending arrest warrants be executed. If all of the highest-profile cases — especially the proceedings against Ratko Mladic and Radovan Karadzic and, as regards the International Criminal Tribunal for Rwanda (ICTR), the case of Félicien Kabuga — are not properly heard before international tribunals, that could be seen as a betrayal of the mandate assigned to the Tribunals by the Security Council. Respect for the victims and their loved ones demands that the perpetrators of the gravest international crimes not go unpunished.

The mission of the Tribunals to contribute to bringing lasting peace to communities ravaged by heinous atrocities necessarily requires that those who allegedly bear the highest responsibility for those atrocities be brought to justice. The message must not be sent that time is in favour of the culprits.

As for the future endeavours of the ad hoc Tribunals with regard to their completion strategies, Italy believes that the crucial issues should be: to finalize the numerous cases being dealt with by the Tribunals; to conduct trials against the fugitives once they are apprehended; to continue the referral by the Tribunals of intermediate and lower-ranking cases to competent national jurisdictions, provided that the national jurisdictions fulfil the human rights requirements referred to in Security Council resolution 1534 (2004); to facilitate the reshaping of judicial activities which will focus on appeals and on the possible revision of judgements; and to increase, if possible, the Tribunal's outreach and capacity-building activities, which have been proven to have an enormous impact on civilian populations. Any support from the international community for these processes is more than welcome, including support aimed at strengthening the judicial capacity of the relevant States to conduct criminal trials for international crimes.

Finally, I would like to recall that the Tribunal's legacy is under serious consideration within the Council. A meeting of the Working Group on Tribunals, with the participation of the principals of the ICTY and the ICTR, has been scheduled for tomorrow afternoon. Many delicate issues, both judicial and administrative in nature, are at stake. We are confident that important decisions will be made to reaffirm the purpose for which the Tribunals were established, namely, to punish those responsible for the most horrific international crimes in the former Yugoslavia and in Rwanda. International criminal justice in those areas, as in the rest of the world, will not expire in 2010.

To conclude, I wish to request that President Pocar further briefly elaborate on the need for the ICTY to have more ad litem judges on a temporary basis to contribute to the fulfilment of the Completion Strategy.

I now resume my functions as President of the Security Council.

I call on the representative of Rwanda.

Mr. Nsengimana (Rwanda): My delegation wishes to thank you, Mr. President, for this opportunity to address the Security Council on the important issue of the International Criminal Tribunal for Rwanda (ICTR). We would like to assure the Council of my Government's full support and cooperation as the Tribunal continues to implement the Completion Strategy. My delegation expresses its thanks to Justice Byron and Prosecutor Jallow for their respective statements.

We note that the number of persons whose trials either have been completed or are in progress is 60. Eight detainees are awaiting trial; of these, five are being considered for transfer to national jurisdictions. With the recent arrest of Augustin Ngirabatware in Germany and three others — Laurent Bucyibaruta, Wenceslas Munyeshyaka and Dominique Ntawukuriryayo — in France, the number of indicted ICTR fugitives still at large has dropped from 18 to 14. However, we note that the remaining 14, including Felicien Kabuga, Colonel Serubuga, Colonel Rwagafirita and many other key masterminds of the Rwanda genocide, are some of the most notorious fugitives.

We appeal once again to the Security Council to take urgent measures to ensure that those indicted do not evade justice. The arrests this year are a positive development worth appreciating, but there is fairly good information about the whereabouts of high-level fugitives. We therefore urge the Council to take the measures necessary to ensure that all States cooperate in apprehending and handing over those fugitives for trial. States that fail to do so must be held to account by the Council.

Rwanda welcomes the initiative of the ICTR Prosecutor regarding the transfer of cases to national jurisdictions, principally to Rwanda. The Rwanda Government and the Prosecution have made remarkable progress with respect to the referral of cases. The Rwanda Government is committed to continuing those preparations. For example, organic law No. 11/2007 has been promulgated to govern all legal matters pertaining to the referral of cases to Rwanda.

Other arrangements have been made with a view to ensuring that all the requirements set forth under rule 11 bis are met. In addition to a modern prison facility built 100 kilometres from Kigali, a modern holding cell has been completed in the capital to accommodate detainees who will be on trial there. Consequently, the five transfer requests are pending before the various ICTR Chambers. We are pleased that our partnership with the Office of the Prosecutor has enabled us to make significant progress in all these areas.

The Rwanda Government strongly holds the position that pending cases must, to the extent possible, be transferred to Rwanda's national jurisdiction for trial. That position is based on the following reasons. First, justice must be seen to be done within the territory where crimes were committed. Secondly, it is more efficient and effective to try cases in Rwanda, since most evidence and witnesses are located in the country. Thirdly, on the basis of sovereign equality, Rwanda, having cooperated with the ICTR, an international judicial institution, should not be subordinated to other national systems. Fourthly, transferral would complement and reinforce Government policies towards reconciliation, which is central to the mandate of the ICTR.

There should be no doubt regarding Rwanda's willingness to take over all cases from the ICTR and to supervise the sentences imposed by the Tribunal. All the necessary preparations are being made, in partnership with the ICTR and with valuable support from our development partners. Thus, the following actions have been taken.

First, a law has been enacted to govern the referral of cases to Rwandan courts from the ICTR. The law abolishes the death penalty and sufficiently addresses the procedural and substantive aspects of prospective trials, as well as monitoring mechanisms. It also creates a legal-aid fund for indigent accused and a witness protection mechanism, to which we hope the international community will contribute, as it has done for the ICTR. The Government has included a specific amount of money in its 2008 budget to provide for legal aid, thereby increasing the capacity of the legal-aid scheme.

Secondly, to improve the management of the scheme and of issues affecting witnesses, an office headed by the Assistant Attorney General has been set up to ensure that the legal-aid system is operating at full capacity. There is a system in place to address issues affecting witnesses and victims, ranging from their security to their psychological and economic rehabilitation.

Thirdly, although there has been significant development in the country's justice sector, a comprehensive technical support programme and plan are under way for longer-term purposes. In that regard, we wish to express our appreciation to our development partners for their support. We also appreciate the ICTR's initiatives in the area of technical support for capacity-building. We welcome the continued support of the international community for those capacity-building efforts.

We would welcome the Council's continued attention on the question of the transfer of convicts to serve sentences in Rwanda. The execution of sentences is vital to the criminal justice process. My Government is concerned about the issue of another six months without progress. We would urge the Security Council to take urgent steps to remedy that situation. In particular, we urge the Security Council to provide clear deadlines with regard to the necessary steps to ensure that convicts are transferred to Rwanda without any further delay, in accordance with article 26 of the ICTR Statute.

As we continue to consider the legacy of the Tribunal on international justice in general, but more specifically its effect on Rwanda, we believe that the Completion Strategy should incorporate the transfer of court documents and materials to Rwanda. We emphasize that those records constitute an important part of our country's recent history and that they are of critical importance to our reconciliation and civic policies. That overrides any desire to acquire those archives simply for research or similar purposes. In deciding on that issue, we hope that Rwanda will not

be prejudiced against on the pretext of its limited material means or any other basis. We think it is important for the United Nations and the Government of Rwanda to begin consultations on that important issue a soon as possible.

The issue pertaining to the management of ICTR appeals needs to be discussed. To date, the two Tribunals have one appellate body. There is a need for more effective and efficient management of the appellate process. We may have to consider splitting the Appeals Chamber into two, so as to enhance its efficiency and effectiveness. We look forward to the Security Council's consideration of that issue.

We would like to conclude by expressing our profound appreciation to the Security Council for its continued support for the Tribunal. We also wish to express our appreciation to Member States for their support through both assessed and voluntary contributions. As we enter the last leg, we urge the Council to continue its commitment to ensuring that the Tribunal is adequately resourced to conduct its work efficiently and effectively. We also thank the President and Prosecutor of the Tribunal and their respective teams for their work in ensuring the implementation of the completion strategy.

The President: I now give the floor to the representative of Serbia.

Mr. Jevremović (Serbia): At the outset, I would like to welcome Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Ms. Carla Del Ponte, its Chief Prosecutor. I also wish to thank them for their report. Before I proceed, let me take this opportunity to recognize all the efforts of Ms. Del Ponte in the past eight years in performing her duties as Prosecutor of the International Criminal Tribunal for the Former Yugoslavia. Her commitment and determination to bring to justice those indicted for the most serious violations of humanitarian law deserve our appreciation. I wish Ms. Del Ponte every success in her new assignment and in her future work. I would also like to congratulate Mr. Serge Brammertz on his appointment as the new ICTY Prosecutor.

A successful completion of cooperation with the ICTY is one of the objectives of the Serbian Government. During Ms. Del Ponte's recent visit to Belgrade, the President and the Prime Minister of Serbia reiterated our full commitment to bring cooperation with the ICTY to a successful end. We firmly believe that it is in the best interest of Serbia and in the best interest of our people.

While bearing in mind the criticism expressed today, let me reiterate that in the seven years since the establishment of a democratic Government in Serbia, in 2000, our cooperation with the ICTY has been significant and effective, both in terms of arrests and indictee transfers and with regard to other forms of cooperation. Indictee apprehensions and surrenders are essential for the work of international criminal tribunals. Let me recall that, out of the 161 persons accused by the ICTY, only four are still at large. There is no doubt that all those who committed war crimes and were indicted by the ICTY should be tried. I believe that the four remaining fugitives — Župlijanin, Karadžić, Mladić and Hadžić — will be located and apprehended in the near future.

The Government of Serbia is doing its utmost in that regard. Progress at both the political and operational levels was recognized by the Prosecutor in her latest assessment. That includes better coordination between various services and close cooperation with the Office of the Prosecutor. Paragraph 24 of annex II in the report in document S/2007/663 states that "progress in improving coordination between different services to track ... fugitives" has been made; that, at the political level, the National Security Council improved "coordination between services involved in cooperation with the Tribunal"; that, at the operational level, "the Action Team, comprised of various services, meets on a regular basis and has become more effective recently"; and that, since mid-October, "a senior representative of the Office of the Prosecutor attends the biweekly Action Team meetings and thus the Office of the Prosecutor has become more closely associated with the current efforts of Serbian authorities geared towards locating and arresting the remaining fugitives".

It is also worth mentioning that the Serbian Government has promised rewards to those who provide information leading to the arrest of ICTY fugitives and that the Serbian Parliament passed a law expanding the role of the war crimes prosecutor, including jurisdiction over those who aid and abet war crimes fugitives.

Let me point out that other aspects of cooperation are equally important, even though they may

sometimes be overlooked, namely, access to witnesses, the production of documents, access to archives and effective regional cooperation. Thus far, Serbia has received more than 1,600 requests for assistance by the ICTY Prosecutor, and more than 1,000 requests for assistance by defence representatives. In replying to various requests, Serbia has provided the ICTY with hundreds of thousands of pages of confidential and sensitive State documents. So far, the Government has waived the obligation of more than 500 military, police and Government officials to keep State, official and military secrets.

The Government of Serbia decided to allow the Tribunal's Prosecutor's Office general access to Serbian archives. As a result, thousands of additional documents have been provided to it. At the same time, responses to the Prosecutor's requests for assistance have increased considerably.

Serbia supports the Completion Strategy of the ICTY, defined in resolutions 1503 (2003) and 1534 (2004). One of the basic preconditions for the success of the strategy is, we believe, the capacity of domestic courts to process cases that have been transferred from the ICTY. To that end, the Chamber for War Crimes was established within the District Court of Belgrade on 1 July 2003, as was the War Crimes Prosecutor's Office, both specially authorized to deal with such cases. Since then, proceedings in several cases have proved the effectiveness of these new judicial institutions.

The District Court in Belgrade and the War Crimes Prosecutor's Office are properly equipped to try cases according to legal standards. To further their cooperation, an agreement allowing the Serbian Prosecutor's Office access to the ICTY electronic database was signed in July 2006.

Investigating and bringing to justice those who perpetrated the most serious crimes in recent history is a common moral and political obligation of all of the countries affected by the recent conflicts in the region. Regional cooperation in this field among the judicial institutions of those countries is therefore of paramount importance.

Serbia welcomes the agreement between the Organization for Security and Co-operation in Europe (OSCE) and the ICTY, enabling the OSCE missions in Bosnia and Herzegovina, Croatia, Montenegro and Serbia to monitor the trial of war crimes in the domestic courts of those countries. It also expresses its gratitude to the OSCE, the United Nations Development Programme, the Council of Europe and other institutions and States that have rendered assistance in harmonizing domestic criminal legislation with ICTY standards and in training war crimes prosecutors and judges.

Serbia consistently cooperates with the ICTY to the best of its abilities. That is our international obligation, which confirms Serbia's full respect for the international standards related to individual responsibility of persons who have committed war crimes and other violations of international humanitarian law. It is also our firm resolve to make a clear break with the legacy of the Milošević regime, and it is our pledge to support a life of peace and security for the present and future generations of our people. That is our contribution to the process of reconciliation in the territory of the former Yugoslavia.

Mrs. Mladineo (Croatia): Let me begin by welcoming the presence among us of the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), Judges Pocar and Byron, as well as the Tribunals' respective prosecutors, Ms. Del Ponte and Mr. Jallow. We have listened attentively to their presentations and took note of their reports to the Council, which record a continuous commitment on the part of each Tribunal to implement its Completion Strategy.

Before making further remarks on the work of the ICTY in particular, I would like to express our profound appreciation to the outgoing Prosecutor of the ICTY, Ms. Carla del Ponte, who has carried out her mandate over the past four years with courage and persistence. We also welcome the appointment of Mr. Serge Brammertz as the new Prosecutor and wish him every success in this work.

As the Tribunal is getting closer to the completion of its mandate, we are glad to note that efforts have been undertaken to design residual mechanisms that will ensure the continuation of the Tribunal's essential functions after the completion of all trials and appeals. We support this timely initiative. In many ways, it will be crucial for the long-term legacy of the Tribunal.

We believe it is important to have that legacy anchored in the countries of the region where it matters

most. One of the issues deserving attention is certainly that of the Tribunal's archives. It has been rightly noted that the significance of the archives extends beyond judicial processes and raises broader questions regarding their legacy. Their physical location and management needs to be properly addressed. Every initiative on their future location should be assessed only by taking into account the interests of all the stakeholders in the region.

Another issue I would like to highlight in this context is the serving of sentences. We see the circumstances as having changed substantially since the inception of the Tribunal, thereby justifying the serving of sentences in the region. We would urge Council members to take this aspect into account when deliberating on the future arrangements.

Perhaps most important for the long-term legacy of the Tribunal is to ensure that it has been embraced by the countries that have been subject to its jurisdiction. Active involvement of national judiciaries in war crimes trials can be an effective means to that end. We would therefore urge the Tribunal and the Council to give greater attention to the role that national legal systems in the region can play in carrying out the residual functions of the Tribunal.

The Croatian judiciary has shown its maturity in fairly and freely trying even the most sensitive cases. As a result, the ICTY demonstrated its trust by transferring one of its cases to the Croatian court. Within the framework of the Tribunal's exit strategy, Croatia stands ready to take over all the remaining cases involving Croatian citizens.

However, one cannot truly speak of the completion of the mandate while those most responsible are still at large. Radovan Karadžić, Ratko Mladić and Goran Hadžić have to face charges before the ICTY. Without their trials the Tribunal's mandate remains unfulfilled and its legacy incomplete. They should not be allowed to outlive the Tribunal.

We continue to believe that justice is an essential prerequisite for lasting peace. As one of the strongest proponents of the establishment of the ICTY, we can note with satisfaction that in many cases the Tribunal has been a vehicle for justice, asserting the values of humanity. Justice begins with establishing individual criminal accountability. All crimes are, after all, individual.

A just punishment is a powerful deterrent. Allow me to quote here the Croatian Prime Minister Ivo Sanader who, during his recent participation in the General Assembly session on the ICTY, said:

> "[J]ust punishment offers a measure of respect for the victims. ... Just punishment also serves truth and opens the way for lasting peace, security and reconciliation". (*A/62/PV.25, p. 8*)

However, the recent judgment delivered by the Tribunal in the case of the "Vukovar Three", involving Mile Mrkšić and others, has provoked strong reactions in Croatia and beyond, most acutely among the victims' families and associations. The Tribunal sentenced Mile Mrkšić and Veselin Šljivančanin, both senior officers in the Yugoslav People's Army at the time, to 20 and five years in prison, respectively. They were found guilty of aiding and abetting torture and of executing of nearly 200 civilians in the Croatian city of Vukovar in 1991. The third accused, Miroslav Radić, was acquitted. The so-called Ovcara site is one of the biggest war graves in post-war Europe. More than 260 persons are believed to be buried there, including all the patients taken from the Vukovar hospital, 194 of whom have been identified. Paradoxically, direct perpetrators of the crimes committed in Ovcara, who were tried for war crimes before the Belgrade War Crimes Court, were given harsher sentences than their commanders before the ICTY.

We believe it is our common responsibility to ensure that crimes against humanity do not go unpunished. We note with concern that no appeal has been filed regarding Radić's acquittal. It is our hope that the appellate judgment in the Vukovar case will render justice that can stand the test of time.

When creating the ICTY and the ICTR, the Security Council set a milestone in the fight against impunity and the protection and promotion of humanitarian law and rule of law in general. Croatia has been a strong supporter of the objectives and principles for which these Tribunals stand and will continue to promote them in its new capacity of an elected member of the Security Council.

The President: I now give the floor to Judge Pocar to respond to comments and questions.

Judge Pocar: Let me first thank all the members of the Council for the support and appreciation for the work done so far in trying to meet the deadlines that

the Tribunal and the Security Council set, as early as 2000-2001, for the completion of the Tribunal's work.

The commitment of the Security Council to support the Tribunal until the work is completed in its entirety is of the utmost value for us. As the Council members know, the Tribunal has shown its commitment to accelerate as much as possible its work, and we continue to explore all possible, new avenues and to use all measures available to make full use of resources in this respect.

In this context, let me come to the question that you, Mr. President, asked me to clarify. We are now facing a situation in the next month whereby we could start a new trial, if we only had the judges to start it. This is due to the fact that the ad litem judges we currently have will have to remain until the end of their trials and the writing of their judgments.

I cannot ask the Secretary-General to appoint a new ad litem judge until these leave, because the quota for the judges is currently complete. I cannot put an ad litem judge on this case because his or her non-renewable three-year term will expire four, five or six months later. So, I have to wait until the judgments are rendered before appointing new ad litem judges.

Thus, I propose that the Security Council allow the Tribunal to authorize the appointment of additional ad litem judges on a temporary basis, so that we can start a new trial. They could then work at least until the judgments are rendered. We will respect the limit on the number of judges when, a few months later, the judgment to be written will be rendered. Thus, this is a temporary measure to go beyond the quota of 12 ad litem judges to allow for the starting of a new trial. This would be possible because we would have a courtroom available, since, when the trial comes to the drafting of the judgment, no courtroom is needed.

May I recall that there already exists a precedent in this regard? In 2005, a newly-elected permanent judge was appointed two months earlier and then, for two months, we had an additional permanent judge in order to allow the timely start of a new trial. This approach would also allow for the speeding up of the end of the trials and a greater respect for the deadlines of the completion strategies. I hope this has clarified this point.

To conclude, allow me to also express my appreciation for all the comments that have been made by the members of the Council on the subject of capacity-building for national jurisdictions, an activity that the Tribunal has carried out in these last years in trying to establish a partnership with domestic courts and to work more closely with them. We believe that the real legacy of the Tribunal will be, on the one hand, in the assessing of international humanitarian law, as far as individuals responsibility and its observance is concerned and, on the other, in the continuation of the domestic courts after the Tribunal will have closed its doors. It is thus essential that we establish this partnership in order to bring this about in the future.

The President: I now give the floor to Judge Byron to respond to comments and questions.

Judge Byron: I wanted to say, from my personal point of view, I have been quite inspired by the thoughtful and well-informed statements of the members of the Security Council. On behalf of the Tribunal, I think we are extremely grateful for the words of appreciation for the work we have done and for the declarations of continuing support. I will certainly undertake to convey to the staff of the International Criminal Tribunal for Rwanda (ICTR) the laudatory and encouraging remarks that some of you have expressed. I am sure that it will encourage their dedication even further as we work towards the Completion Strategy.

In this regard, I must also include a special expression of appreciation to the representative of the Republic of Rwanda for his assurance of his Government's appreciation for the work we are doing. I would like to confirm, on behalf of the Tribunal, that the Republic of Rwanda, has, in fact, been cooperating with the work of the Tribunal.

We have taken note of the concerns and the suggestions that have been expressed. With regard to the legacy, we are actively engaged internally in discussions and also in dialogue with the International Tribunal for the Former Yugoslavia (ICTY) and we will participate in the discussion scheduled for tomorrow with the working group on the subject.

Finally, I would just like to confirm the commitment of the ICTR to use its best efforts to honour the mandates of the Completion Strategy and to work as effectively and efficiently as we can to meet this challenge.

The President: I shall now give the floor to Prosecutor Del Ponte.

Ms. Del Ponte: First of all, Sir, thank you very much for your words of appreciation. I shall take them with me with gratitude.

I would like to tell the Council that the International Tribunal for the Former Yugoslavia was established to put on trial those most responsible for the crimes committed during the conflict in the former Yugoslavia. Those most responsible are Karadzic and Mladic. The Council will therefore have the choice and the responsibility to decide whether or not the Tribunal can fulfil the mandate the Council gave it. That will be a decision that will confront the Council very, very soon. It is impossible to envisage that Karadzic and Mladic can go on trial in Belgrade. It is absolutely unimaginable. They are considered to be heroes. The Tribunal has a precise mandate. The Tribunal must be able to fulfil that mandate, but it is the Council's choice whether or not Karadzic and Mladic will be confronted by international justice.

Regarding the question about the United Nations Interim Administration Mission in Kosovo and its relationship with our accused, Haradinaj, I must tell the Council that we closed the prosecution's case without being able to obtain the testimony in court of two or three extremely important witnesses. Haradinaj remains in detention, although he has asked for provisional release during the Christmas holiday. We have, unfortunately, some accused who have provisional release for the Christmas holiday — that is another particularity that we do not have in our national system — but fortunately, Haradinaj could not be provisionally released. The judges of the Trial Chamber decided that it was really too dangerous, because what is going on in this demonstration of his friends' relationship with the accused has a chilling effect on the witnesses.

I cannot give the Council details because an investigation is ongoing. We informed the Legal Officer of the Secretary-General in summary — very brief summary, because the investigation is ongoing — and it will be possible, when the investigation is finished in due course, to inform the Security Council, if needed.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

May I take this opportunity, on behalf of the Security Council, to thank Judge Pocar, Judge Byron, Prosecutor Del Ponte and Prosecutor Jallow for taking the time to brief the Council.

The meeting rose at 1.35 p.m.